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July 6, 2022

Via ECF

Honorable Sarah Netburn
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: Sanchez et al. v. Art *1, Inc. et al. - 20-cv-05623 (ER)

Dear Judge Netburn:

Our firm represents Defendants, Art + 1, Inc. and Mr. Artan Maksuti in the above referenced matter. We write in response to Plaintiff's Counsel's July 1st, 2022 Letter [Docket #129], wherein Plaintiff's sought their *fifth* request for an adjournment / extension of time to submit the Preliminary Approval Motion Papers and proposed settlement agreement, from July 1, 2022 to July 19, 2022.

While Plaintiffs correctly stated that the Defendants did not oppose Plaintiffs' extension request, the Defendants did express our deep frustration with, and concerns about, the progression of Plaintiffs' counsel's role in working with us to meet the Court's filing deadline. We raise these concerns to apprise the Court of the situation, and to ask that the Court require the Plaintiffs to provide us with all finalized drafts of their edits by no later than Monday, July 11, 2022. We further write this letter with the hope that Plaintiffs' counsel will cooperate with Defendants in good faith to finalize the motion and proposed settlement agreement, *without* the need for any further extensions, and have their clients available for signing in advance.

Specifically, and without divulging any confidential or substantive communications made about the settlement terms or negotiations, Defendants wish to inform the Court of the following issues:

(1) On a June 7, 2022 Conference Call with Your Honor, a schedule was set for Plaintiffs to provide the Defendants with a draft of all of their motion papers / documents by no later than June 24, 2022. Between June 7, 2022 and June 24, the undersigned counsel, along with Attorney Linda Kagan, provided Plaintiffs' counsel with updated revisions to the draft Settlement Agreement as early as June 9, and we requested Plaintiffs' counsel to provide their revisions, if any, on their Memorandum of Law, Declaration, and Proposed Notice. On June 14 and June 15, Defendants' counsel sent emails to Plaintiffs' counsel, Jacob Aronauer and Vince Bauer, asking for an ETA on their edits, and requesting that they send same on a rolling / piecemeal basis to expedite the finalizing of the motion papers for filing. Defendants further sent Plaintiffs a corrected Settlement Agreement, reflecting one erroneous number that was changed, on June 16. However, despite Defendants' requests for documents in advance, we only received Plaintiffs' revisions on their Memorandum of Law on June 23, while only

receiving their revised Declaration, Proposed Notice, and further revised Settlement Agreement all on Friday, June 24th, coming in at and shortly after 5pm. Plaintiffs' counsel further did not send us the final version of Schedule B to the Settlement Agreement by June 24, as was required. Instead, they asked us to resend the document which we had sent them twice previously.

(2) Defendants' counsel provided our minor edits of all documents to Plaintiffs on Tuesday morning, June 24, with one document sent later that day – mainly putting back into the documents certain previously mutually agreed upon terms that the Plaintiff's counsel had removed. The undersigned counsel again implored Plaintiffs' counsel to work with us, as I offered to set up a conference call if necessary to go through the documents and finalize the edits (further offering to work around a gap on Friday afternoon to take my son to a pediatric dentist for a procedure). However, Plaintiffs' counsel waited until the afternoon of June 30 – one day before the due date set by Your Honor – to advise the undersigned counsel and Ms. Kagan that Mr. Aronauer was on a planned vacation, and that he would be unable to get the documents signed by his clients in time for July 1, 2022. He requested another extension until July 19, to which Defendants' counsel expressed our frustration and concern in our response email. This last-minute extension request is, unfortunately, a concerning pattern of Plaintiffs' counsel, which we hope ends at this time.

(3) While Defendants' counsel had requested that Mr. Aronauer send us for review a draft of the letter request for an extension that he intended to file on July 1, 2022 (seeking his fifth extension), Mr. Aronauer instead filed Plaintiffs' counsel's letter with the Court without providing any prior draft. While he cited to "recent edits" by the Defendants as a purported part of the reason for an extension, Defendants dispute and disagree that any minor edits made and provided on June 24th would have required an extension past July 1. Clearly, if Plaintiffs' counsel had provided their documents before the June 24th deadline, yet another extension would not be necessary. Without divulging the contents of communications, Defendants are very concerned about revisions we receive from Plaintiffs whereby they change parts of the documents, such as parts of the Settlement Agreement, that were previously mutually agreed upon by all parties.

(4) Of utmost concern to Defendants' counsel is the fact that our client, Defendants Artan Maksuti and Art +1, Inc., have been forced to incur extraordinary legal fees as a result of Plaintiffs' history and pattern of delays, their repeated requests for documents to be resent a number of times, and for the ongoing conflicts resulting in conference calls with the Court, and new revisions to documents. It should be noted that the parties reached a settlement in principle *more than eight months ago*, and while the first Preliminary Approval Motion filed in March was denied by the Court, we submit that the Defendants have been prepared and have met our responsibilities in revising, drafting, and finalizing documents – only to be met with further delays by Plaintiffs' counsel. We do not want our client, who has been quite patient with the Plaintiffs' counsel's actions, to incur any more expenses or time waiting for this stressful matter to be filed, instead of looming over their heads for months on end.

As we imagine that Your Honor is quite busy, Defendants' counsel are not seeking a conference call at this time. Rather, Defendants' counsel wanted to give the Court an accurate assessment of the situation at this time, and to respectfully ask that The Court require that Plaintiffs' counsel provide us with finalized versions of all documents for filing by or before July 11, 2019.

We thank the Court for its attention to this matter.

Respectfully Submitted,

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